



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

SE49-323

Provided by DEP

A. General Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



From:

New Bedford
Conservation Commission

BK 5254 PG 263
11/29/01 10:59 DOC. 35896
Bristol Co. S.D.

This issuance is for (check one):

- ☒ Order of Conditions
☐ Amended Order of Conditions

To: Applicant:

Johnson Golf Management
Name
PO Box 126
Mailing Address
Weston Mass 02193
City/Town State Zip Code

Property Owner (if different from applicant):

City of New Bedford
Name
133 William Street
Mailing Address
New Bedford Mass 02740
City/Town State Zip Code

1. Project Location:

581 Hathaway Rd New Bedford
Street Address City/Town
121
Assessors Map/Plat Number Parcel/Lot Number

2. Property recorded at the Registry of Deeds for:

Bristol 1417 176
County Book Page

Certificate (if registered land)

3. Dates:

8-31-01 11/13/01 11/29/01
Date Notice of Intent Filed Date Public Hearing Closed Date of Issuance

4. Final Approved Plans and Other Documents (attach additional plan references as needed):

New Bedford Municipal Golf Course Johnson Golf Management, Inc. Sht 1/2 rev. 11/13/01
Title Date
New Bedford Municipal Golf Course Johnson Golf Management, Inc. Sht 2/2 rev 11/09/01
Title Date

5. Final Plans and Documents Signed and Stamped by:

Robert M. Field, P.E.
Name

6. Total Fee:

\$250.00

(from Appendix B: Wetland Fee Transmittal Form)



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B. Findings

Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act. Check all that apply:

- | | | |
|--|---|--|
| <input type="checkbox"/> Public Water Supply | <input type="checkbox"/> Land Containing Shellfish | <input checked="" type="checkbox"/> Prevention of Pollution |
| <input checked="" type="checkbox"/> Private Water Supply | <input checked="" type="checkbox"/> Fisheries | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| <input checked="" type="checkbox"/> Groundwater Supply | <input checked="" type="checkbox"/> Storm Damage Prevention | <input checked="" type="checkbox"/> Flood Control |

Furthermore, this Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- ☒ the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations, to protect those interests checked above. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

- ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations to protect those interests checked above. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued.
- ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).

General Conditions (only applicable to approved projects)

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.



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BK 5254 PG 265

DEP File Number:

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B. Findings (cont.)

4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
"Massachusetts Department of Environmental Protection" [or, "MA DEP"]
"File Number SE49-323"
10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.



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B. Findings (cont.)

15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

See attached Special Conditions 18-48

Findings as to municipal bylaw or ordinance

Furthermore, the _____ hereby finds (check one that applies):
Conservation Commission

- ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

Municipal Ordinance or Bylaw

Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw, specifically:

Municipal Ordinance or Bylaw

Citation

The Commission orders that all work shall be performed in accordance with the said additional conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.



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DEP File Number:

SE49-324

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B. Findings (cont.)

Additional conditions relating to municipal ordinance or bylaw:

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

November 29, 2001

Date

This Order must be signed by a majority of the Conservation Commission. The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office (see Appendix A) and the property owner (if different from applicant).

Signatures:

Richard H. Brown

Joseph A. Lavin

John J. Murphy

On

13th

Day

November 2001

Month and Year

before me personally appeared

above Conservation Commission members

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

John J. Jones

Notary Public

December 15, 2006

My Commission Expires

This Order is issued to the applicant as follows:

☐ by hand delivery on

Date

☒ by certified mail, return receipt requested, on

November 29, 2001

Date

7000 1670 0001 4543 0310



Massachusetts Department of Environmental Protection
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BK 5254 PG 268

DEP File Number:

SE49-323

Provided by DEP

C. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate DEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Appendix E: Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act, (M.G.L. c. 131, § 40) and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

D. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on Page 7 of Form 5 shall be submitted to the Conservation Commission listed below.

New Bedford

Conservation Commission

SPECIAL CONDITIONS

**Johnson Golf Management DEP File Number SE49-323
New Bedford Municipal Golf Course Hathaway Rd., map 121 lot 37
New Bedford, Mass. 02740**

18. No activity shall occur prior to obtaining all necessary and required permits, licenses, and approvals; and until copies of the same have been furnished to the Conservation Commission.
19. Any design modifications, alterations, amendments, or additions shall be subject to the approval of the New Bedford Conservation Commission. Requests for any changes shall be made in writing and shall be accompanied by a revised plan.
20. No modification to surface features, drainage or topography shall be permitted except as indicated by this Order of Conditions.
21. Contours shall remain unchanged except as permitted by this Order of Conditions.
22. There shall be no construction other than that proposed by the Notice of Intent and included on the submitted plan.
23. Immediately upon completion of the exterior construction and grading, permanent stabilization landscaping shall be carried out in order to minimize erosion.
24. All wet areas not to be altered shall be kept clear of rubbish, debris, and construction material.
25. All exposed soil or subsoil shall be replanted with vegetation such as grass, groundcover or shrubs so as to minimize erosion and siltation.
26. There shall be minimum disruption of existing grades and vegetation in order to minimize erosion.
27. No runoff shall be caused to drain on to adjoining property or on any public ways.
28. All excess material shall be removed from the site.
29. The owners shall notify the Conservation Commission of the work-start date prior to its commencement so that regular inspections may be made.
30. All work performed in accordance with said plans and this Order of Conditions shall be in compliance with the state building and/or plumbing code.
31. The Inspector and/or the Commission members shall have the right to enter upon the land for the purpose of the inspection and/or the taking of pictures to determine and evaluate compliance with this order.

32. The design engineer will certify, in writing, that this project has been complete in accordance with the above Order of Conditions before the Certificate of Compliance will be issued.
33. All facilities and equipment shall be continually operated and maintained so as to comply with this order of conditions and M.G.L. Ch. 131, S 40, the Wetlands Protection Act.
34. Certain conditions, such as maintenance or monitoring are on-going and are not to expire at the end of three years or with the issuance of a Certificate of Compliance.
35. This order of Conditions shall apply to any successor in interest or successor in control.
36. Any changes required by any other board or authority may require a new filing with the Conservation Commission.
37. At the discretion of the Conservation Commission, the applicant may be required to file with any or all of the following agencies:

**The Department of Environmental Protection
Army Corps of Engineers
Coastal Zone Management
Division of Waterways**

38. The Conservation Commission and/or the City of New Bedford shall not be responsible or liable for the construction, the operation, or the maintenance of any part of this project and does not warrant the safety of the same.
39. Any fill and/or construction materials shall be placed in upland areas.
40. Any mitigation and resource protection devices and measures, e.g. hay bales, siltation fence, etc., are to be installed prior to initiation of any work under this Order of Conditions. The Conservation Agent shall be notified when in place for inspection and verification. No work to be undertaken under the Order of Conditions until written or verbal approval is received from the Conservation Commission or its Agent.
41. In accordance with Condition number thirteen (13), no activity shall take place until the applicant has furnished written documentation that the plans on file with the Conservation Commission are consistent with permits and approvals of other Town Boards.
42. Prior to any construction, an on-site inspection is to be held between the proposed contractor, the engineer, and the Conservation Commission Agent to go over the sequence of construction and all other restrictions and requirements as noted on the Order of Conditions. A written construction schedule to be received at that time.
43. All erosion control barriers shall be constructed of snow fencing, silt fencing and

staked hay bales and clearly depicted on the plans, and placement shall be inspected both pre and post construction by Agent

44. Any changes in proposed drainage patterns will require written approval by the Conservation Commission.
45. Wetland flagging to remain in place until the project has been completed and Certificate of Compliance issued.
46. Notice of Intent, Order of Conditions and plans shall be retained on the site during construction and made available to all contractors.
47. All conditions are on going and do not expire until the issuance of a Certificate of Compliance.
48. The design engineer will certify, with an asbuilt plan, that this project has been complete in accordance with the above Order of Conditions before the certificate of Compliance will be issued.